United Nations S/2016/531

Security Council

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The Security Council,

Recalling the arms embargo on Libya which was imposed, modified and reaffirmed by resolutions 1970 (2011), 1973 (2011), 2009 (2011), 2040 (2012), 2095 (2013), 2144 (2014), 2174 (2014), 2213 (2015), 2214 (2015), and 2278 (2016),

Recalling resolution 2259 (2015) which welcomed the signing of the 17 December 2015 Libyan Political Agreement of Skhirat, Morocco and endorsed the Rome Communiqué of 13 December 2015 to support the Government of National Accord ("GNA") as the sole legitimate government of Libya, that should be based in Tripoli, *reiterating* its support for the full implementation of the Libyan Political Agreement, and further *expressing* its determination in this regard to support the GNA,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya,

Reiterating its grave concern at the growing threat of terrorist groups in Libya proclaiming allegiance to Islamic State in Iraq and the Levant (ISIL) (also known as Da'esh), the growing trend of groups associating themselves with it, as well as the continued presence of other Al-Qaida-linked terrorist groups and individuals operating there, and *recalling*, in this regard, the obligations under resolution 2253 (2015),

Recalling its resolution 2178 (2014), in particular paragraph 5 of that resolution, and *expressing* concern that the flow of foreign terrorist fighters to Libya can increase the intensity, duration and complexity of the conflict and pose a serious threat to their States of origin, transit, and travel,

Expressing deep concern at the threat posed by unsecured arms and ammunition in Libya and their proliferation, which undermines stability in Libya and the region, including through their transfer to armed groups in violation of the arms embargo, and *underlining* the importance of coordinated international support to Libya and the region to address these issues,

Expressing concern that the situation in Libya is exacerbated by the smuggling of illegal arms and related materiel in violation of the arms embargo, *underlining* its concern at the allegations of violations of the arms embargo by sea, land, or air, and *expressing further concern* that such arms and related materiel are being used by terrorist groups operating in Libya, including by ISIL,

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Welcoming the Vienna Communiqué of 16 May 2016 which recognizes the necessity of enhanced coordination efforts between the legitimate Libyan military and security forces, urges them to work quickly to implement a unified command in accordance with the Libyan Political Agreement to coordinate in the fight against Da'esh and UN-designated terrorist groups in Libyan territory, and underlines that the GNA has voiced its intention to submit appropriate arms embargo exemption requests to the Committee established pursuant to resolution 1970 (2011) ("the Committee") to procure necessary lethal arms and materiel to counter UN-designated terrorist groups and to combat Da'esh throughout Libya,

Recalling that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, sets out the legal framework applicable to activities in the ocean,

Reiterating its request in resolution 2278 (2016) to the GNA to appoint a focal point to brief the Committee at its request and provide information relevant to the Committee's work on the structure of the security forces under its control, consolidated procurement procedures, the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Government security forces, and training needs, and *emphasizes* the importance of the GNA exercising control over and safely storing arms, with the support of the international community,

Affirming that the GNA may submit exemption requests under paragraph 8 of resolution 2174 (2014) for the supply, sale or transfer of arms and related materiel, including related ammunition and spare parts, for use by the national security forces under its control to, inter alia, combat ISIL (the Islamic State in Iraq and the Levant, also known as Da'esh), groups that have pledged allegiance to ISIL, Ansar Al Sharia, and other groups associated with Al-Qaida operating in Libya, and *calls upon* the Committee established pursuant to paragraph 24 of resolution 1970 (2011) to consider expeditiously such requests in accordance with its rules and procedures,

Affirming that, pursuant to paragraph 10 of resolution 2095 (2013), the supplies of non-lethal military equipment and the provision of any technical assistance, training or financial assistance, when intended solely for security or disarmament assistance to the GNA and the national security forces under its control, shall be exempt from prior notification to and approval by the Committee,

Taking note of the final report of the Panel of Experts S/2016/209 established by paragraph 24 of resolution 1973 (2011) and modified by resolution 2040 (2012) submitted pursuant to paragraph 24 (d) of resolution 2213 (2015), and the findings and recommendations contained therein, in particular the Panel's report of regular violations of the arms embargo despite reinforcement of the measures,

Taking note of the decision of the Council of the European Union on 23 May 2016 to extend the mandate of EUNAVFOR MED Operation Sophia by one year and to add further supporting tasks to its mandate, including the implementation of the UN arms embargo on the high seas off the coast of Libya,

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Reaffirming its determination that terrorism, in all forms and manifestations, constitutes one of the most serious threats to peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* the flows of arms and related materiel transferred to or from Libya in violation of the arms embargo, including to ISIL and other terrorist groups in Libya;

2. *Urges* Member States to combat by all means, in accordance with their obligations under the Charter of the United Nations and other obligations under international law, including international human rights law, international refugee law and international humanitarian law, threats to international peace and security caused by terrorist acts;

3. *Decides*, with a view to addressing the threat posed by unsecured arms and ammunitions in Libya and their proliferation, to *authorize*, in these exceptional and specific circumstances for a period of 12 months from the date of this resolution Member States, acting nationally or through regional organizations, with appropriate consultations with the GNA, in order to ensure strict implementation of the arms embargo on Libya, to inspect, without undue delay, on the high seas off the coast of Libya, vessels bound to or from Libya which they have reasonable grounds to believe are carrying arms or related materiel to or from Libya, directly or indirectly, in violation of paragraphs 9 or 10 of resolution 1970 (2011), as modified by paragraph 13 of 2009 (2011), paragraphs 9 and 10 of 2095 (2013) and paragraph 8 of 2174 (2014), provided that those Member States make good-faith efforts to first obtain the consent of the vessel's flag State prior to any inspections pursuant to this paragraph, and calls upon all flag States of above-mentioned vessels to cooperate with such inspections;

4. *Authorizes* Member States, acting nationally or through regional organizations, conducting inspections pursuant to paragraph 3, to use all measures commensurate to the specific circumstances to carry out such inspections, in full compliance with international humanitarian law and international human rights law, as applicable, and urges Member States conducting such inspections to do so without causing undue delay to or undue interference with the exercise of freedom of navigation;

5. *Authorizes* all Member States, acting nationally or through regional organizations, to, and decides that all such Member States shall, upon discovery of items prohibited by paragraph 9 or 10 of resolution 1970, as modified by paragraph 13 of 2009 (2011), paragraphs 9 and 10 of 2095 (2013), and paragraph 8 of resolution 2174 (2014), seize and dispose (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) of such items, *further reaffirms* its decision that all Member States shall cooperate in such efforts, *authorizes* Member States, acting nationally or through regional organizations, to collect evidence directly related to the carriage of such items in the course of such inspections, and *urges* Member States, acting nationally or through regional organizations, to avoid causing harm to the marine environment or to the safety of navigation;

6. *Affirms* that the authorizations provided by paragraph 3, 4 and 5 of this resolution apply only with respect to inspections carried out by warships and ships owned or operated and duly authorized by a State and used only on government non-commercial service, and which are clearly marked and identifiable as such;

7. *Underscores* that these authorizations do not apply with respect to vessels entitled to sovereign immunity under international law;

8. *Affirms* that the authorisation provided for in paragraph 4 includes the authority to divert vessels and their crews to a suitable port to facilitate such disposal, with the consent of the port State, *affirms* further that the authorization in paragraph 4 includes the authority to use, all measures commensurate to the specific circumstances, in full compliance with international humanitarian law and international human rights law, as applicable, to seize items set out in paragraph 3 in the course of inspections;

9. *Affirms* that the authorizations provided in this resolution apply only with respect to the smuggling of illegal arms and related materiel on the high seas off the coast of Libya and shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations under UNCLOS, including the general principle of exclusive jurisdiction of a Flag State over its vessels on the high seas, with respect to any other situation, underscores in particular that this resolution shall not be considered as establishing customary international law;

10. *Decides* that when any Member State, acting nationally or through regional organizations, undertakes an inspection pursuant to paragraph 3 of this resolution, it or the regional organization through which it is acting shall submit promptly an initial written report to the Committee containing, in particular, explanation of the grounds for the inspection, the efforts made to seek the consent of the vessel's Flag state, the results of such inspection, and whether or not cooperation was provided, and, if prohibited items for transfer are found, further requires such Member State or regional organization submit to the Committee, at a later stage, a subsequent written report containing relevant details on the inspection, seizure, and disposal, and relevant details of the transfer, including a description of the items, their origin and intended destination, if this information is not in the initial report; and requests the Committee to notify the flag State of the inspected vessel that an inspection has been undertaken, notes the prerogative of any Member State to write to the Committee concerning the implementation of any aspect of this resolution, and further encourages the Panel of Experts to share relevant information with Member States operating under the authorization set out in this resolution;

11. *Encourages* Member States and the GNA to share relevant information with the Committee, and with those Member States and regional organizations acting under the authorisations set out in this resolution;

12. *Requests* the Secretary-General to provide, with input from CTED, in close collaboration with the Analytical Support and Sanctions Monitoring Team, as well as the Panel of Experts established pursuant to resolution 1973, a report, in 30 days, on the threat posed to Libya and neighbouring countries, including off the coast of Libya, by Foreign Terrorist Fighters recruited by or joining the Islamic State in Iraq and the Levant (ISIL, also known as Da'esh), Al-Qaida, and associated individuals, groups, undertakings and entities;

13. *Decides* to remain actively seized of the matter.